IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.12 OF 2005

Bandra Reclamation SRA Co-op.
Housing Society Limited and others Petitioners

versus

Slum Rehabilitation Authorities
and others Respondents

Mr.R.S.Apte with Mr.Nitin Gangal i/by Pradeep Havnur, adv. for petitioners.

G.W.Mattos, AGP for respondent no.2.

G.D.Utangale, adv. for respondent no.1.

Manoj Bajpai i/by Vinod Singh, adv. for intervenor.

Milind Vasudeo for intervenors.

Shoaib Menon in Chamber Summons No.17/2005.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 17th February 2005

PC :

1. Heard Mr.Apte with Mr.Havnur for petitioners, Mr.Utangale for respondent no.1, Mr.Mattos for respondents 2 to 4. Petitioner no.2 is a hutment dweller on a plot situated at Bandra Reclamation (West) in a colony known as "Nargis Datt Nagar".

He claims to be the Secretary of one Bandra Reclamation SRA Co-operative Housing Society scheme which is the first petitioner, and petitioner no.3 claims to be the Developer of this property. Petitioners claim that plot is full of hutments and according to them there are some 878 hutments. It is also their case that the eligibility of the hutment dwellers was scrutinized and thereafter petitioner no.3 had come on the scene and had applied to the SRA Authorities for sanction of development. Petitioners claim that the list of those occupants had been scrutinized and further steps were in progress. It is not disputed that Letter of Intent has not been issued permitting this development by respondent no.1 SRA..

2. In the mean while it so happened that a good number of these hutments got gutted in a fire which broke on 8th December 2004. It is contended that this fire was not a natural phenomenon but was managed by some interested persons. But in any case what the petitioners are more concerned and are disturbed with is because of introduction of a scheme which is known as Valmiki Ambedkar Aavas Yojana (for shortly hereinafter referred to as "VAMBAY

scheme"). Copy of the scheme which is tendered is taken on record. They learnt that the respondents were likely to provide accommodation under this scheme which is floated by the State Government and thereby they may drop the proposal which was initiated by petitioner no.3.

3. Reply has been filed by one Mr.Gokul Dhanlal Jaiswal, Executive Engineer, Division (West), Mumbai Slum Improvement Board, a regional unit of MHADA.. Reply is also filed by one Ashwin Shamji Valotia, Assistant Engineer of Slum Rehabilitation Authority. In the affidavit filed by Mr.Ashwin Valotia it has been stated that there are discrepancies in the Annexure-II which consists of the list of eligible persons and therefore, the proposal could not be processed further. It is further stated that no further action can be taken by SRA regarding approval of the scheme till corrected Annexure-II is received. As far as Mumbai Slum Improvement Board is concerned, which is unit of MHADA, it has been stated by the concerned Engineer on affidavit that the respondents have decided to implement VAMBAY scheme and the necessary Government Resolution dated 19th September 2002 has been issued. Under the scheme some 6455

dwelling units are to be put up in Mumbai and Mumbai Suburban District. As far as site involved in the writ petition is concerned, it is further stated that some 222 houses have been approved under this scheme and 48 of them have already been constructed. Mr.Mattos has shown us the photographs of some of the houses which have been constructed. The GR issued by the State Government on 19th September 2002 has also been brought to our notice. Under this scheme the entire expenditure is to be borne by the Central and State Government in the ratio of 50:50 each. As far as occupants of these slums are concerned it is also made clear that as far as possible the dwelling units to be constructed will be of an area of 225 sq.ft.. It is, therefore, submitted in the affidavit of Mr.Jaiswal that there is no case made out for interference.

4. It is an admitted position that the plot of land belongs to respondent no.2 - MHADA.. Respondent no.2 has to, therefore, decide as to which scheme it ought to resort to. It cannot be directed that it should resort to either SRA scheme or this new scheme. If in the opinion of respondent no.2 the new scheme is the better scheme and if it decides to opt for that, there

is no reason why this Court should interfere and direct respondent no.2 that it should not adopt the new scheme but must continue with the SRA scheme. In any case, that cannot be done at the instance of the petitioners. The only interest of petitioners can be that they must get a decent accommodation without any expenditure being incurred by them. This is on the footing that they are occupying the structures concerned for a long time i.e. since prior to 1st January 1995. It is stated by the respondents that all those who were on this plot of land having their structures as on 1st January 1995, will be eligible to be housed in the new scheme. The petitioners do not have any rights beyond their being accommodated in dwelling houses of the size of 225 sq. fts; provided they are there on the site on or before 1st January 1995. We do not find any reason to interfere in the decision arrived at by the respondents. Petition is, therefore, dismissed.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)